

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|                           |   |                                    |
|---------------------------|---|------------------------------------|
| MIDDLEBY MARSHALL INC.    | ) |                                    |
|                           | ) |                                    |
| and                       | ) |                                    |
|                           | ) |                                    |
| G.S. BLODGETT CORPORATION | ) |                                    |
|                           | ) |                                    |
| Plaintiffs,               | ) | Civil Action No. 08 C 369          |
|                           | ) |                                    |
| v.                        | ) | The Honorable Ruben Castillo       |
|                           | ) | U.S. District Court Judge          |
| PIZZA EQUIPMENT SUPPLY,   | ) |                                    |
| INC.                      | ) | The Honorable Geraldine Soat Brown |
|                           | ) | U.S. Magistrate Judge              |
| Defendant                 | ) |                                    |

**DEFENDANT'S STATEMENT OF COMPLIANCE  
IN SUPPORT OF ITS MOTION TO DISMISS OR, ALTERNATIVELY,  
TO TRANSFER TO NORTH CAROLINA**

Defendant, PIZZA EQUIPMENT SUPPLY, INC., through its counsel, states that it has filed a motion entitled Motion to Dismiss Or, Alternatively, To Transfer to North Carolina. Counsel for Plaintiffs was served with all relevant papers and the motion is scheduled to be addressed during a hearing scheduled for 9:00 a.m. on March 20, 2008.

Plaintiffs' counsel objected to the motion on the basis that Defendant's counsel failed to follow Judge Castillo's motion practice requirement that requires a Statement of Compliance be incorporated into the motion to dismiss. Defendant's counsel spoke with Plaintiffs' counsel about this oversight. On March 11, 2008 during a conversation with Defendant's counsel, Plaintiff's counsel agreed to treat the memorandum accompanying Defendant's motion as the letter required by Judge Castillo's motion practice rules. Defendant's counsel sent an e-mail to Plaintiff's counsel confirming that agreement. See attached Exhibit A.

Counsel for the parties had a subsequent conversation on March 12, 2008 in an effort to resolve issues relating to the motion.

The parties are making good progress toward settlement and are cooperatively working to resolve issues relating to the motion.

While Defendant overlooked the requirement of incorporating a Statement of Compliance in the actual motion as filed, it has effectively complied with the motion practice requirements. Upon service of the motion and accompanying memorandum, Plaintiffs' counsel was notified about the legal and factual grounds for the motion, and was provided with references to supporting authorities. Plaintiffs' counsel agreed to accept the service of the motion and memorandum as the equivalent of the letter required by Judge Castillo's motion practice rules.

Defendant believes it has effectively complied with all of the necessary notification issues raised by Judge Castillo's motion practice rules with the exception of incorporating a Statement of Compliance in the motion itself. Defendant requests this Court to accept this submission as the required Statement of Compliance and requests that the Court maintain the motion as filed rather than denying the motion which would require Defendant to re-file.

March 14, 2008

/s/ Susan Neal

David P. Miranda  
Brett M. Hutton  
HESLIN ROTHENBERG  
FARLEY & MESITI, P.C.  
5 Columbia Circle  
Albany, NY 12203  
Phone: 518.452.5600  
Fax: 518.452.5579  
e-mail: BH@hrfmlaw.com  
(Pro Hac Vice Admission Pending)

Susan Neal  
Kevin J. McDevitt  
NEAL & MCDEVITT, LLC  
1776 Ash Street  
Northfield, IL 60093  
Phone: 847.441.9100  
Fax: 847.441.0911  
E-Mail: [kmcdevitt@nealmcdevitt.com](mailto:kmcdevitt@nealmcdevitt.com)  
(Local Counsel)

*Attorneys for Defendant  
Pizza Equipment Supply, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that on March 14, 2008 he caused a true and correct copy of the foregoing STATEMENT OF COMPLIANCE IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS OR, ALTERNATIVELY, TO TRANSFER TO NORTH CAROLINA to be served electronically via CM/ECF on the following counsel of record:

Charles A. Laff, Esq.  
Martin L. Stern, Esq.  
Judith L. Grubner, Esq.  
Marshall J. Schmitt, Esq.  
MICHAEL BEST & FRIEDRICH LLP  
180 North Stetson Avenue  
Suite 2000  
Chicago, IL 60601-6710  
Counsel for Plaintiffs

/s/ Susan Neal

One of the Attorneys for Defendant,  
PIZZA EQUIPMENT SUPPLY, INC.